Mr. T. V. Subramania Ayyar *(Nemmara):* What is the meaning of this word *Kumbhakonam* ?

Mr. P. Govinda Menon *(Mulakunnathukavu):* It is a well-reputed town in the Tamil Nad.

Deputy President: The Minister is perfectly justified in giving the qualifications of the members who are to form the Select Committee, since by his motion he recommends to the House that these members may be accepted by the House for constituting the Committee.

Mr. M. K. Devassy *(Adur):* I may be allowed to make a submission that the Minister's proposal has neither been opposed nor supported. Unless a necessity arises whereby the qualifications of the members should be placed before the House, I take objection to do so.

Dr. A. R. Menon *(Minister for Rural Development):* Mr. M. Sivarama Menon, Ex-Municipal Chairman of Ernakulam, and the Minister will also be in the Committee.

Motion put and carried.

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Deputy President: The motion is already carried and therefore there cannot be any more discussion on it.

Dr. A. R. Menon *(Minister for Rural Development):* I move that the Committee may be given two months' time to report.

Deputy President: The Advocate-General will be the Chairman and the Committee is to report within two months.

The Cochin Insolvency Act Amendment Bill—*(cont.)*

Mr. N. Govinda Pai *(Nominated):* Mr. President, Sir, when my Hon'ble Friend from Nemmara, Mr. Subramania Ayyar, violently opposed the Bill, he had in mind a group of people quite different from those that I find here in Mattancheri. That is, he was thinking of an unregistered banker who was depending for his deposits on poor destitute widows and other poor people who have to face a great loss if such a banker goes to liquidation. These set of bankers, or rather hundi merchants, want to collect usurious rates of interest. This leads them always to invest their capital very insecurely and consequently in course of time they go to liquidation. In such a case, it is really hard that the poor investors should be allowed to lose any part of their deposits by giving any advantage to such a

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banker. He is perfectly right when he claims that this amendment should not be allowed to be law if there existed in the State only such class of people. If any deviation could be made in law, or some provision could be made for such particular kind of people who are fastly dying out, I would be only very glad. But, when I think of the poor merchants who sometimes have to go into liquidation for no fault of theirs, I find that this amendment will be only very just and I welcome it. We can find from the history of Mattancheri itself, if we go back for the past fifty years, that people who have stood the strain of competition in trade and lived long enough in that profession can be numbered on the tips of our fingers. The natural inference is that others had to walk out of the field for financial reasons. It cannot be denied that some of them might have failed for having entered the speculative market, but there were honest dealers who were ruined by great fluctuations of the market which they could not control and had to surrender their all to the creditors and enter the open road for no fault of theirs. In such cases, where honest people who have been striving hard and working honestly, when they had to lose all their own for no fault of theirs, it is only equitable that they must be given something when they are faced with insolvency. In the above circumstances, I only welcome this amendment and support it strongly.

Mr. L. M. Pylee *(Latin Christians-Ernakulam):* I only make one or two observations, regarding this Bill. Firstly, I whole-heartedly support the measure. Secondly with regard to the amount specified, *viz.*, 8 as. in the rupee, there are very few cases that come within this limit and consequently this limit may be lowered to practical possibilities. Thirdly, in section 2, the Court may, where the Court is satisfied that the conduct of the insolvent has been *bona fide*, grant him an amount equal to one fourth of the value of the remaining property and therefore the power vested in the court is not of a mandatory character, but of a discretionary nature. Why should not the power be made mandatory instead of merely leaving it to the discretion of the Court. I would submit that the word "*May*" may be changed into "*Shall*". The conduct of the insolvent has been put to the *bona fide*, and when all those conditions have been satisfied, and the court is convinced of the necessity and integrity of the insolvent, the court can grant him an amount equal to one-fourth of the value of the remaining property. Why not make this power mandatory. That is all my submission, Sir.

Mr. C. A. Kunjunni Raja *(Advocate-General):* Three objections have been pointed out to this measure. One coming from the

* Speech not corrected by the hon'ble member.

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Hon'ble Member for Nemmara is that, according to him if only 16 annas in the rupee is paid, the insolvent can be given the amount. I do not think this comes with good grace. When sixteen annas is paid, the law requires that the balance in the estate should be paid to the insolvent and no legislation is necessary for that purpose. Another suggestion is that eight annas in the rupee is too high a figure and in fixing this mortgage, debts of the insolvent should also be taken into account. That also is not a feasible measure, when the nature of the administration of the insolvents' estate is considered. It is well known that so far as these mortgage debts are concerned, the Insolvency Court has absolutely no jurisdiction. If the mortgagee is satisfied with the security, he need not go to the Insolvency Court at all. He must be given the full amount, so that the real administration is only about the assets which are not covered by the mortgage. If the mortgage right is also taken into account, in most cases, creditors will not be getting anything. Suppose an insolvent has got property worth six thousand rupees and mortgage debts five thousand rupees, and total debts including mortgage debts eight thousand, in that case half of eight thousand will be four thousand, and if the mortgage debt of Rs. 5,000 is taken into account, the insolvent has to be paid one-fourth of the balance of one thousand rupees, before any amount is paid to simple creditors. If mortgage debt is not taken into account, since the assets come to only Rs. 1,000, he will not be paying 8 annas for simple debts of Rs. 3,000 and that is the reason why mortgage debt cannot be taken into account and the Government cannot therefore accept that proposal. Anyhow, this fact may be considered in the Select Committee if this motion is accepted.

Then, another objection raised was that this will be giving protection to insolvents who have defrauded their creditors. That objection proceeds from a want of understanding of the exact provision in the Bill. The Bill is intended to give this amount only to insolvents whose conduct is *bona fide*, so that those whose conduct is not *bona fide* will not get protection under the Act. They do not come within the provision.

Another minor objection is the one relating to the change of the word "may" into "shall". The court may be compelled to do that if all the conditions are fulfilled. No doubt, this is a suggestion which can be considered in the Select Committee. Government will fix the position after the Select Committee report is received. I request that the House may be pleased to accept the motion.

Motion put and carried.

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Secretary to the Council: The Title of the Bill is "The Cochin Insolvency Act Amendment Bill."

Mr. C. A. Kunjunni Raja *(Advocate-General):* I move that the Bill be referred to a Select Committee, consisting of the Secretary to the Government, Mr. A. L. Antony, Mr. Kochukunhan Kaimal, Mr. A. V. Moothedan and the Advocate-General.

Mr. K. P. Kannan Nayar *(Secretary to Government):* I second it.

Motion put and carried.

Deputy President: The Secretary to Government shall be the Chairman and the Committee is to submit its report within one month.

The Cochin Patents and Designs Act Amendment Bill *

Mr. C. A. Kunjunni Raja *(Advocate-General):* I move that the Cochin Patents and Designs Act Amendment Bill be read in Council.

Mr. K. P. Kannan Nayar *(Secretary to Government):* I second it.

Mr. C. A. Kunjunni Raja *(Advocate-General):* Sir, the Cochin Patents and Designs Bill was passed in this Council and received His Highness' assent in 1112. It is an adaptation of the corresponding enactment in British India. In British India several changes have been introduced subsequently and the present Bill is simply to bring into force the amendments in British India. It is an enactment of a highly technical nature and it is better that we have the same laws here also. The various details which are of a technical nature are explained in the objects and reasons. The main amendments are with a view only to stop import of pirated designs and minor improvements in the various sections of this Act.

Motion put and carried.

Secretary to the Council : The Title of the Bill is the Cochin Patents and Designs Act Amendment Bill.

Mr. C. A. Kunjunni Raja *(Advocate-General):* I request that the President may be pleased to suspend S. O. 32 so that the Bill may be taken up for consideration.

Deputy President : S. O. 32 is suspended.

Mr. C. A. Kunjunni Raja *(Advocate-General):* I move that the Bill be taken up for consideration.

Mr. K. P. Kannan Nayar *(Secretary to Government) :* I second it.

* Appendix I

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